



## OFF DUTY INVESTIGATIONS CASE REPORT

**Date:** July 3, 2007

**Investigation #:**

**Type of Investigation:** Stateline Redeemable Deposit Containers for  
Alcohol/Pop

**Client:** Michigan Beer & Wine Wholesalers Association

**Address:** 332 Townsend St., Lansing, Michigan 48993

**Investigator:** David A. Gizzi

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### **REQUEST FOR INVESTIGATION 7-3-07**

On the above date and time, this investigator received a voice mail message from Mr. SPENCER NEVINS, Director of Legal & Regulator Affairs for the Michigan Beer and Wine Wholesalers Association in Lansing, Michigan. In the voice mail Mr. NEVINS requested that I call him concerning a possible investigation concerning violations of the Michigan Deposit Law.

It should be noted that this investigator and O.D.I. were involved in a long term investigation back in the spring and summer of 2006 concerning this very same issue. The clients in that case were O.K. Distributors, Inc., Bud Distributing, Inc., both from Dowagiac, Michigan, and South End Beverages, Inc., from St. Joseph, Michigan. During that investigation violations of the Michigan Deposit Law were taking place on a large scale at the Wal-Mart Store in Niles Michigan. Investigators in that case were able to determine that a large

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majority of the violations were due to a lack of enforcement action at the Wal-Mart Store as. Customers were allowed to enter the front of the store and go directly to the Reverse Vending Machines (RVM's) and feed both redeemable and non-redeemable containers into the machines and obtain a ten cent (\$.10) credit on every container. There were *no* employees of Wal-Mart checking the containers. A very large amount of money was lost by the clients in that case as they were paying out on containers they had not collected any deposit on.

O.D.I. was able to determine that violators were obtaining both redeemable and non-redeemable containers from several different sources including but not limited to trash dumpsters behind bar/restaurants, recycling centers, recycling containers from residential area's, and from retail outlets in the State of Indiana that were selling full containers that were sometimes marked as redeemable in states that have enacted deposit laws in which the containers are stamped on the top or labeled as redeemable, even though no deposit was obtained at the time of sale.

It should also be noted that during that investigation in 2006 surveillance was conducted on some retail outlets in the State of Indiana with the assistance of law enforcement and numerous individuals were observed buying large quantities of alcohol in redeemable containers where no deposit was collected.

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Some of those individuals were arrested by law enforcement in the Michigan for those violations. Toward the very end of the investigation an undercover operation was conducted at the Wal-Mart Store with the permission of Wal-Mart and in cooperation with the Michigan State Police and the Berrien County Sheriff's Office. During the operation approximately 39 individuals were arrested in a very short time on violations of the Michigan Deposit Law. Those individuals were observed collecting deposits for containers that had been fed thru the RVM's that were not redeemable. Other retail outlets in Michigan using the RVM's near the state line of Indiana were also having the same problem. Smaller retail outlets not utilizing RVM's were observed refusing to accept non-redeemable containers mainly due to the retail outlets having to check each container for the proper stamping/labeling.

In speaking with Mr. NEVINS, he indicated they would like an estimate of costs associated with O.D.I. conducting an investigation on retail outlets south of the Michigan border in both Indiana and Ohio to try and determine if and how many marked redeemable containers were being sold as this may reflect upon the overall problem of over redemption in the State of Michigan. Mr. NEVINS further indicated that their association may attempt to sponsor legislation to try and change the law in Michigan. He indicated that the report from O.D.I. may be used to show the extent of the problem, if in fact it was

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found to exist. He also indicated that this investigator/owner of O.D.I. may be called upon in the future to testify to facts found in this investigation. I advised Mr. NEVINS that I would supply him with an estimate of costs associated with such an investigation.

#### **ESTIMATE COST OF INVESTIGATION TO MR. NEVINS 8-1-07**

On August 1, 2007, I did in fact fax/e-mail to Mr. NEVINS as estimate of costs that would be associated with such an investigation. In that estimate I indicated that undercover investigator from O.D.I. would be utilized to enter retail establishments to try and determine a percentage of Michigan redeemable containers were being sold. I also indicated that they would attempt to obtain photographs and/or video of such findings. In the estimate to Mr. NEVINS, he was advised that we would conduct the investigation from Michigan City, Indiana, to Toledo, Ohio. A copy of that estimate is included with this report.

On August 7, 2007, I spoke to MR. NEVINS and he indicated that the estimate was approved and that O.D.I. should initiate the investigation with a maximum limit being set at \$3,000.

#### **RETAIL OUTLETS IN HOWE, INDIANA 8-9-07**

On the above date, this investigator went to the Valero Travel Plaza located just south of the Indiana Toll Road on State Road 9. This establishment is probably less than 10 miles south of the Michigan/Indiana state line. This store does not sell any alcohol. They had a very large selection of pop and energy

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type drinks. Of all the containers observed it was estimated that 50% were found to be stamped as redeemable in the State of Michigan although no deposit would be collected on it. The observed containers included such products as Coke, 7-Up, Verners, etc. Almost all of the aluminum canned energy drinks were stamped redeemable.

A second retail outlet was entered, Millers's Food & Drug located in LaGrange, Indiana. The hours of this store are from 5AM to 11 PM and again, no alcohol was sold there. Approximately 90% of all containers observed in the store were stamped or labeled as redeemable in Michigan. While in the store I observed a female stocking the shelves in that area. I spoke to her and she advised that she worked for a Coke distributor which is owned by Coke and out of the Ft. Wayne, Indiana, area. Her employer is CCE which stands for Coke-A-Cola Enterprises. I inquired of her if she was aware of the deposit law in Michigan and she stated that she had heard of it and heard talk about it at the workplace. She stated that she does not having anything to do with that aspect of the distributing at her level, she only stocks the retail outlets with what is supplied to her. She suggested that I speak to a MR. DAVE ALTOF at phone number (260) 747-1084.

While in the store I purchased one 12-pack of Fago red pop in aluminum containers and one plastic bottle of Fago red pop, both of which are labeled as being made in Michigan with a Michigan redeemable stamping but are being

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sold in Indiana which does not have a deposit law and they did not collect a deposit on the containers purchased.

### **REPORT ON OTHER RETAIL LOCATIONS**

Other locations that were checked were in Michigan City, South Bend, Mishawaka, Indiana and Toledo, Ohio. A report containing that information is attached to this report.

### **FINDINGS OF INVESTIGATION**

It should be noted that investigators involved in this case were advised to be fair during the investigative process. Investigators were advised not to check containers that were known to be stamped or labeled in the manufacture process as all being redeemable. An example of this would be a beer known as Corona. It is made in Mexico and imported by company in Chicago. All of their containers are labeled as redeemable in the states of Connecticut (CT), Delaware (DE), Hawaii (HI), Iowa (IA), Massachusetts (MA), Maine (ME), New York (NY), Oregon (OR) and Vermont (VT) for \$.05 and are labeled as worth \$.10 in Michigan (MI). They are also labeled for the states of Oklahoma (OK) and California (CA) for CRV. Again, investigators were instructed *NOT* to include those type of containers in their review.

A synopsis of the findings showed the following percentages of containers as being redeemable in Michigan.

- A. Michigan City, Indiana, 5 retail outlets-----32%
- B. Roseland/South Bend/Mishawaka, Indiana, 7 retail outlets-----42%

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C. Howe/Lagrange, Indiana. 2 retail outlets-----70%  
D. Toledo, Ohio, 4 retail outlets-----60%

The above percentages were taken from a total of 18 retail outlets with the total overall average being 51% of containers observed were found to be redeemable in the State of Michigan although no deposit was ever collected. This investigation does not reflect upon the problem of non-redeemable containers being placed into RVM's and earning a cash value of \$.10 although no deposit was ever collected.

Respectfully Submitted,

David A. Gizzi  
Investigator  
Off Duty Investigations



## OFF DUTY INVESTIGATIONS CASE REPORT

**Date:** 8/13/07-----8/19/07

**Investigation #:**

**Type of Investigation:** Stateline Redeemable Deposit for Pop/Alcohol

**Client:** Michigan Beer & Wine Wholesalers Association

**Address:** 332 Townsend St, Lansing, MI 48993

**Investigator:** Eric Gizzi

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I, Eric Gizzi, an investigator for Off Duty Investigations was instructed by Dave Gizzi to go to Michigan City, IN, Roseland/South Bend/Mishawaka, IN, and Toledo, OH, to attempt to get an approximation of how many redeemable deposit cans were being sold near the state line in the mentioned cities. For this report, I will break down each city with the establishments visited and the results of each.

### **1. Michigan City, IN-- 8/13/07**

One interesting thing about Michigan City is that it sits close to the Michigan state line and it also has the Blue Chip Casino that many Michigan residents frequent.

#### **A. Al's Supermarket (US 12 near the state line of IN/MI)**

Al's Supermarket is a good sized supermarket just across the state line on US12 in Indiana at the Michigan border. My estimation for this store was that 40-50% of all the pop, beer, and wine coolers were MI redeemable.

MI deposit cans/bottles: MGD bottles, Miller High Life/Coors Light cans,  
Fosters bottles, Coke/Diet Coke/Mountain Dew  
Plastic bottles, Smirnoff/Seagrams/Bartles & James/  
Mike's Hard Lemonade bottles.

#### **B. Al's Supermarket (Intersection of Arthur St/Franklin St)**

This was from the same chain as the Al's mentioned above. My estimation for this store was 40-50% of all the pop, beer, and wine coolers were MI redeemable.



MI deposit cans/bottles: MGD bottles, Mike's Hard Lemonade/Seagrams/  
Bartles & James/Smirnoff/ Bacardi Raz bottles/  
Colt 45 cans, Coke/Diet Coke/ Mountain Dew plastic  
bottles.

C. Michigan City Liquors (Franklin St, Michigan City)

This was a small liquor store that sat on Franklin St. They did not have any observable pop in the store as when asked the clerk stated there was a pop machine outside. I estimate that only 20% of the alcohol bottles were MI redeemable. All of the wine coolers like Mike's Hard Lemonade, Seagram's and Bartles&James were MI redeemable.

D. Virk Liquors ( 520/US 12 Michigan City, IN)

This was a very small liquor store that I estimate only 10-15% were MI redeemable. All of the above mentioned wine coolers were MI redeemable here as well as were MGD bottles.

E. Meijer (Franklin St, Michigan City, IN)

This was a Meijer from the retail giant chain. I estimate that 35-40 % of the pop/beer/wine coolers were MI Redeemable as all of the Meijer brand pops were redeemable.

MI Redeemable: MGD bottles/cans, all wine coolers, Sam Adams bottles,  
Small coke/diet coke cans/bottles, 7-Up, Faygo, A&W  
Bottles.

2. Roseland, IN 8/18/07

A. Michiana Mini Mart (SR 933 at the state line of Roseland/Niles)

This is an extremely busy convenience store as a good majority of the customers have Michigan plates. It sits directly on the state line on the IN side.

I would estimate that 40-50% of the pop/beer/wine coolers were MI redeemable.

MI Redeemable: MGD bottles, Coors original bottles, Bacardi O (about half), Seagrams  
Bartles&James, Mike's Hard Lemonade, Sam Adam's, Coke/Diet Coke/  
Pepsi small bottles and cans, single pop Coke/Pepsi cans

B. Pop Shop (SR 933 Roseland, IN, across the street from Michiana Mini Mart)

This is a very busy store just like the Michiana Mini Mart that gets a good majority of MI residents buying their beer where they are not charged deposit. I would estimate that 40-50 % were MI redeemable.

MI Redeemable: All were the same as Michiana Mini Mart except that around 80 % of the Bacardi O and Bartles&James were MI redeemable.

### **3. South Bend, IN 8/18/07**

#### **A. Belmont Beverage (Edison Rd next to Notre Dame Campus, South Bend)**

This is an average size liquor store that sits next to the Notre Dame campus. I would estimate that 30 % of the beverages were MI redeemable. The redeemables were the same as the above two establishments.

#### **B. Martin's Super Market ( Ironwood Rd near Notre Dame Campus, South Bend, IN)**

This is a large supermarket near Notre Dame Campus. It was very busy when I was there. I would estimate the store to have 35 % MI redeemable containers.

#### **C. Meijer ( Cleveland Rd/Portage Rd, South Bend, IN)**

This is from the Meijer chain stores. I would estimate that, like the other stores visited around Roseland and South Bend, it had 35-40% MI redeemable containers.

### **4. Mishawaka, IN 8/18/07**

#### **A. Wal Mart (Grape Rd/Main St, Mishawaka, IN)**

This is a major chain store that is extremely busy. I would estimate that 50 % of all the bottles and cans were MI redeemable as all of the Wal Mart brand (Sam's) were returnable.

MI Redeemable: All Wal-Mart Brand pop, 7-Up/A&W bottles and cans, Rolling Rock light bottles, MGD bottles.

#### **B. Meijer (Grape Rd/Main St, Mishawaka, IN)**

I would estimate that 50% of all the bottles and cans were MI redeemable with the same being as at Wal-Mart with the only difference being that the Meijer store brand were all redeemable.

### **5. Toledo, OH 8/19/07**

The stores visited in Toledo, OH were done on SR 184 or called Alexis Rd. These were less than 2 miles south from the MI state line. There were major Chrysler and Jeep assembly plants and countless liquor stores over a ten mile stretch. Ann Arbor and the south suburbs of Detroit sit less than 30 mins from here.

#### **A. Meijer (SR 184 or called Alexis Rd less than 1 mile off of I-75)**

I would estimate that 75-80% of all the visible pop/beer/ wine coolers in the store were MI redeemable.

MI redeemable: Miller High Life cans, Milwaukee's Best cans, all wine coolers (Smirnoff, Bartles & James, Seagrams, Mike's Hard), All Faygo cans/bottles, All Meijer brand cans and bottles, Coke/Diet Coke plastic bottles and small cans, 7-Up, A&W bottles.

#### **B. Kroger's (Alexis Rd, Toledo, OH)**

I would estimate that Kroger's had 80-85% MI redeemable pop/beer/wine coolers in the store.

MI redeemable: Most Kroger brand pop bottles/cans, Most Coke products, Faygo, MGD bottles, Coors Original bottles, Old Milwaukee, All wine coolers.

C. Sunoco Gas Station ( Alexis Rd, Toledo, OH)

This was a gas station near the Chrysler plant that carried beer and wine coolers. I would estimate that 25% of the beer and 35% of the pop in the store were MI redeemable.

D. Alexis Beverage Center (Alexis Rd, Toledo, OH)

This was an average size liquor store that I would estimate that 50% of the pop and 50% of the beer cans were MI redeemable. The interesting thing about this store was that they had Budweiser rebate forms for when you bought beer and they had some Budweiser bottles there were MI redeemable being the first of any store I found to have Budweiser redeemable bottles.

## **Conclusion:**

I was not sure what to expect when I first started this job but it became apparent quickly that there were a lot of MI redeemable bottles and cans being sold in Indiana and Ohio. It was interesting to note that for the most part, each city showed a fairly consistent percentage of their MI redeemables with the major stores like Meijer, Wal-Mart, Kroger being significantly higher when their store brands were accounted for as all were MI redeemable with a small amount of Kroger brand not being MI redeemable.

I also noticed that all of the major brewers and soft drink companies had containers in both Indiana and Ohio that were marked as redeemable in Michigan. As the major brewers produce many brands and in some instances wine coolers, no attempt was made to determine which companies accounted for the highest volume.

My experience from past investigations revealed that many Michigan residents buy pop and alcohol from Indiana state line stores. I also know that many of the Indiana and OH residents are able to return the cans to Michigan without problems as they are stamped Michigan deposit. This allows them to save an extraordinary amount of money. I also have observed at Notre Dame home football games, numerous people sorting through trash containers attempting to obtain MI redeemable cans to collect for money. Many of them had shopping carts full of redeemable containers.

During this investigation, numerous photos and short video clips were taken from inside the stores and from outside in the parking lot. A copy of which will be copied to a CD and attached with the report.

Respectfully,

Eric D. Gizzi  
ODI Investigator

Submitted to  
**MICHIGAN BEER AND WINE WHOLESALERS ASSOCIATION**  
Lansing, Michigan

**ANALYSIS OF FOREIGN CONTAINERS  
IN THE MICHIGAN DEPOSIT STREAM**

*Prepared by*  
**MICHIGAN CONSULTANTS**  
426 W. Ottawa  
Lansing, Michigan 48933  
517-482-0790

*Contributors to this report:*  
Jacob Miklojcik  
Elva Revilla  
Meagan Bobier Kempf

February, 1998

# **ANALYSIS OF FOREIGN CONTAINERS IN THE MICHIGAN DEPOSIT STREAM**

## **EXECUTIVE SUMMARY**

### **SITUATION**

Each year in Michigan, approximately **4 billion** beer, carbonated soft drink, and wine cooler containers are purchased that have a state required 10-cent deposit. This equates to approximately **\$400,000,000** in total deposits. There has always been a concern that a significant number of containers have been coming into Michigan from other states for redemption. Various reasons have emerged that suggest the problem is substantial and may be increasing.

### **MISSION**

The Michigan Beer and Wine Wholesalers Association (MBWWA) retained Michigan Consultants to perform a Level I analysis of the situation. The mission was to determine if sufficient evidence exists to reach a conclusion that the problem is of a level significant enough to merit public policy attention. The project included the accumulation of new data.

### **WRONGFUL REDEMPTION AND THE ECONOMIC INCENTIVES**

Wrongful redemptions incorporate a range of activities. At one extreme is the individual that redeems a few cans once a year purchased during travel between states. At the opposite extreme is the large-scale use of trucks to import thousands of cans at one time into Michigan. In the middle is the individual or small group that deliberately and consistently buys cases of beverages in Ohio, Indiana or Wisconsin and redeems them in Michigan.

The receipt of a wrongful redemption reduces the net costs of a \$3.00 twelve pack of soft drinks by 40% and the net costs of a \$12.00 case of beer by 20%. A Michigan resident who is deliberately purchasing the products in another state is also avoiding Michigan sales and excise taxes on beer.

### **WHY THE PROBLEM MAY BE GROWING**

There are various reasons why the issue is receiving greater attention, including:

- Media reports of arrests of large-scale smugglers.
- A Seinfeld episode that was based on the theme of transporting containers from New York to Michigan for unlawful redemption.

- The redemption rate in Michigan continues to far exceed other deposit law states; the higher minimum deposit is definitely a factor, but this also makes Michigan a more appealing target for unlawful redemptions.
- Several beer distributors serving border areas have found that the level of redemption has been increasing (in some instances to well over 100%).
- Full operation of a law requiring that the state receive 75% of the unredeemed deposits, reducing incentives for internal monitoring.
- Advent of Reverse Vending Machines (RVMs) may provide a level of anonymity for the unlawful redeemer.

### **WHO LOSES?**

There may be a perception by some that unlawful redemption is a harmless pastime. This simply is incorrect. The prime loser is the Natural Resources Trust Fund, followed by distributors and retailers. One calculation is particularly insightful. For each 1% of total redemptions that foreign containers represent, the Michigan system loses approximately \$4,000,000.

### **CAN INSPECTION STUDY**

#### **Methodology and purpose**

To develop first-hand data on the problem, a redeemed container sampling and inspection effort was conducted in Southeast and Southwest Michigan. Resources did not allow all nuances of the system to be analyzed or a statewide sampling, but did allow sufficient data to be collected from the target areas to determine if a foreign container problem exists.

A methodology was developed to operate within various time and budgetary constraints, consistent with the mission of the project. Over 20,000 aluminum cans that had been redeemed through RVMs were inspected. The cans had been culled during a two-day period in December of 1997. The effort involved over 20 different stores located in 14 different counties. The stores selected were viewed as most likely to have a foreign container problem.

The counting and inspections were made at independent recycling centers. Various techniques were used to assure a random selection of containers within the survey universe. The fact that the RVMs had crushed the containers meant added complexity in accurately inspecting each container.

## Results

In the Southwest region, 6.7% of the containers inspected did not possess the Michigan 10-cent marking. In the Southeast region, 30.5% did not possess the marking. Several aspects might explain the differential, including human factors in the inspection process, statistical chance, quicker access to major stores in Ohio, and better targeting of outlets with problems. In any event, the effort was not intended to enumerate the entire state or analyze subsets of the problem. **The effort was sufficiently extensive and the figures of sufficient magnitude to be able to strongly make the case that a significant problem does exist, and the problem merits public policy consideration.**

## Information on "shortbagging"

The inspection effort also provided the opportunity to gather information of relevance to the issue of "shortbagging", a problem internal to the redemption system. The bags of crushed containers averaged 2% to 3% less than the 720 that serve as the basis for redemption between distributors and retailers. Even though this situation may not impact unclaimed deposit payments to the state, it may suggest that a significant internal accounting issue exists that needs attention.

## CONTAINERS SOLD IN INDIANA AND OHIO WITH MICHIGAN MARKINGS

Some containers sold in other states may have the *MI 10-cent* markings. If brought to Michigan, there is no way to determine that they are not eligible for redemption. This is a problem shared by all 9 mandatory container deposit states.

In order to develop first-hand data, Michigan Consultants staff members made one day visits to stores in the Toledo area and stores in Indiana along the Michigan border. The inspections took place in December of 1997. The most important findings are as follows:

- The findings were remarkably similar for both states and all stores.
- The products of the firms that dominate the beer and soft drink markets in the region---Anheuser-Busch, Miller Brewing, Coca-Cola, and Pepsi--in all instances did not contain Michigan deposit markings.
- The products of smaller beer and soft drink producers often did have the Michigan markings.
- Wine coolers typically had the Michigan markings.
- The containers of the major Canadian beers (Molson and Labatts) did not have deposit markings.
- Squirt and Crush containers typically possessed the Michigan markings, as did Vernors and Faygo containers.
- Meijer soft drink cans (sold only at their own stores) in most instances possessed the Michigan markings.

## STATEWIDE INFERENCES

### Base scenario from study data

Solely for descriptive purposes, the report developed a scenario for the statewide monetary impact created by unlawful redemption. The scenario utilized information from the container auditing effort and various clearly identified assumptions. The scenario is not a formal estimate, but is offered as a useful approximation based upon prudent assumptions.

The scenario arrived at a figure of \$14.7 million as the cost for unlawful redemption of containers without Michigan deposit markings. Redemption of containers that have the MI 10-cent markings yet are purchased in other states adds another \$0.9 million. Summed together, the total cost to the Michigan system under this scenario is **\$15.6 million annually**. Sensitivity tests of the assumptions suggest a plausible range of calculations from \$10 million to \$30 million annually.

The scenario also generated for descriptive purposes an allocation of the cost burden between the various entities potentially impacted:

Natural Resources Trust Fund	\$ 8.2 million
Retailers	\$ 2.7 million
Distributors	<u>\$ 4.7 million</u>
	\$ 15.6 million

The above figures do not include the additional handling and administrative expense that distributors and retailers must absorb for redeeming a product that they never sold.

### Other extrapolations

To provide points of references, extrapolations of the level of the statewide problem were also made from 1) detailed overredemption data collected by one key distributor, 2) a Massachusetts study of wrongful redemptions, and 3) comparing Michigan redemption figures to those in Oregon. These calculations arrived at system costs estimates ranging from \$14.1 million to \$16.1 million annually. The figures are very similar to the cost figure developed in the base scenario.